Civil Revision Petition No114/2005
Kaluram Vs. Sriram

Date of Order ::: 20/09//05

Hon'ble Mr. Justice Ajay Rastogi

Mr. C.M.Verma , for petitioner (defendant).

This is defendants' revision petition filed against judgment & decree dt18/01/03 passed by Civil Judge (Jr.Dn.) No.2, Bansur (Alwar) upheld in appeal No.11/05 vide judgment dt.22/08/05 by Additional District Judge Behror, whereby suit of plaintiff respondent was decreed with costs, for recovery of Rs.22740/- with interest 6% p.a., from the date of presentation of suit till execution of decree.

The suit was filed inter-alia averring that a sum ofRs.17,596/- was borrowed on 26/04/02 on a promissory Note written and signed by defendant to repay the loan with monthly interest @ Rs.2/- per hundred; and it has also been contended in the plaint that even after service of notice for recovery of borrowed money was not paid as per promissory Note, the suit was filed for Rs.17596/ & Rs.5144/- towards principal & interest respectively.

Petitioner filed written statement. On the basis of pleadings on record, issue was framed as to whether a sum ofRs.22,740/- was at all due & payable by the defendant on26/02/02. Upon the evidence led by either side and after taking into consideration material on record, learned trial Court recorded finding that signature on promissory Note was not

disputed by the defendant and accordingly, passed the decree, referred to above, against which appeal was filed but the same was dismissed. Hence this revision petition.

Shri C.M.Verma, Counsel for petitioner contended that signatures on promissory Note were obtained by adopting coercive method and by force and he never took money from plaintiff and that apart, criminal complaint was also lodged in this regard, as such very finding recorded that he had borrowed money from plaintiff, as a consequence whereof, the decree for recovery of money was passed, is contrary to settled principle of law and both the courts below have failed to consider the same.

I have considered the aforesaid contention and perused both the judgments assailed in this revision petition. I find that in his own statement made by defendant and documents (Ex.1 & 2) it stands established that document was signed by him only and no contrary evidence was led before the trial Court. In fact only objection raised by defendant before trial Court was that since affidavit was not filed alongwith suit at the time of its presentation, which was sufficient to dismissed the suit, itself. The trial Court, after taking note of evidence adduced on record, arrived at the conclusion that both the parties led their evidence and were permitted to cross examine the same and even if there has been procedural lapse, that will not frustrate presentation of the plaint. I find no error in the finding recorded by courts below which

is duly supported by evidence on record, warranting no interference in revisional jurisdiction of this Court.

Consequently, I do not find any merit in this petition, which is hereby dismissed in limine, alongwith Stay Petition No.2245/05.

(Ajay Rastogi), J.

K.Khatri/114CR2005.